

Confidential for Members

Kansas City Lawsuit
Special PR No. K13-62
Monday, July 9, 1962

Ross vs. Philip Morris, Inc.

The defense rested at 11:30 a. m. Monday and, following recall of a medical witness by the plaintiff, court was recessed until Tuesday when closing arguments are to be made. Each side has been allotted two hours. The case is expected to go to the jury about 3:30 p.m. Tuesday.

The final witness called by defense counsel Hardy was Dr. Ferdinand C. Helwig, Clinical Professor of Pathology at the University of Kansas Medical School. He testified that he annually examines 30,000 slides and gross specimens, of which 2500-3000 are cancer cases and about one per year is a case of cancer of the pyriform fossa. He said that this form of cancer is uncommon and that he has observed no increase in its occurrence.

Dr. Helwig said cancer is a group of diseases, of which he did not know the cause. He is the pathologist who examined the biopsy specimen of the plaintiff's cancer. He said it was a cancer of the left pyriform fossa. He said that this sinus is normally closed except during swallowing or phonation, and that smoke cannot get into it. Even assuming that tobacco smoke could cause cancer, he said, it could not cause the disease in this site. He said he did not believe that smoking caused cancer of the larynx proper or any organ in the body.

In cross-examination, Dr. Helwig agreed that chronic irritation may be a factor in cancer causation in some instances, but that even in these instances it is not known whether the implicated agent is primarily an irritant or is exerting some subtler effect. He testified that he believed nutritional deficiencies, alcohol and syphilis are suspects in cancer of the pyriform fossa, but not tobacco smoke.

After the defense rested, plaintiff's counsel Field recalled to the stand Dr. John Knight, who had performed the first biopsy on the plaintiff in January 1952.

Dr. Knight testified that since the start of the trial, he had examined three patients by indirect laryngoscopy and found that in them the pyriform fossae do not close completely during inhalation. Furthermore, he said, he had asked the patients to smoke during the examinations, and that he had seen smoke eddying and whirling in their pyriform fossae. He also testified that the anatomical chart which Field had tried to introduce frequently into evidence earlier was reasonably accurate, and was signed by the man who had been head of the Department of Medical Art of Johns Hopkins Medical School at the time (1919) the chart was published.

Defense counsel Hardy asked the witness if it was not true that it would be impossible for a patient to smoke a cigarette normally with a laryngeal mirror in his throat. Dr. Knight replied that his three test patients were extraordinary and that he had been able to perform this procedure on them without their even gagging.

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